

Application No. 10/642,293
Amendment dated 7 July 2005
Reply to Office Action of 7 April 2005

Page 5 of 6

REMARKSClaims 1, 8-10 and 17

The Examiner rejected claims 1, 8-10 and 17 under 35 U.S.C. 103(a), contending that the subject matter of these claims would have been obvious to a person skilled in the art in light of U.S. patent No. 5,515,648 to Sparkes and U.S. patent No. 5,097,627 to Roberts.

Claim 1 has been amended to recite that the "plants grow in said containers in a direction radially inwardly of said cylindrical shell". Also, claims 1 and 17 have been amended to replace the term —cylindrical structure— with "cylindrical shell".

Sparkes discloses an apparatus for growing plants which comprises a plurality of plant supporting elements in the form of cylinders (16) which extend between two end frames (11). Each cylinder houses a plurality of sockets (20) "extending in radial directions" to receive plant holders (21) for growing plants (25). (See col. 4, ln 12-14). The structure disclosed by Sparkes causes "the plants to grow substantially straight stems extending radially from the cylinders 16." (See col. 4, ln. 62-64, and Figure 3). Thus, Sparkes teaches away from an apparatus wherein the "plants grow in said containers in a direction radially inwardly of said cylindrical shell," as recited in amended claim 1.

Roberts discloses a cellular water table having divergent grow lines along which plants are moved in plant holders. Roberts does not disclose a rotary plant growing apparatus, and certainly does not suggest an apparatus wherein the "plants grow in said containers in a direction radially inwardly of said cylindrical shell," as recited in amended claim 1.

Accordingly, the Applicant submits that amended claim 1, as well as claims 8-10 and 17 which depend therefrom, are patentable over the cited references.

Claims 2-7 and 11-13

Claims 2-7 and 11-13 were withdrawn pursuant to the species election in the Amendment dated 29 June 2004 pending allowance of a generic claim. The Applicant submits that amended claim 1 is generic to all of species I to IV identified by the Examiner and is allowable for the reasons discussed above.

Application No. 10/642,293
Amendment dated 7 July 2005
Reply to Office Action of 7 April 2005

Page 6 of 6

Accordingly, the Applicant submits that claims 2-7 and 11-13 which depend from amended claim 1 are entitled to consideration as provided by 37 CFR 1.141 and requests rejoinder of these claims. To the extent that the Examiner considers claims 2-7 and 11-13 to be otherwise allowable, the Examiner is hereby authorized to amend claims 2, 4, 5 and 11 to replace the term --cylindrical structure-- with "cylindrical shell", such that these claims comply with 35 USC 112, second paragraph.

Conclusions

The Applicant respectfully requests reconsideration and allowance of this application in light of the foregoing amendments and comments.

Respectfully submitted,
OYEN WIGGS GREEN & MUTALA LLP

By:



Richard A. Johnson
Registration No. 56,080
tel: 604.669.3432 ext. 9046
fax: 604.681.4081
e-mail: docket3@patentable.com